

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
1515 Clay Street, 20th Floor
5 Post Office Box 70550
Oakland, California 94612-0550
6 Telephone: (510) 622-2143
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation
Against:

Case Number: 2013-74

12 **LISA RAE AYERS**
13 **1994 Roth Court**
14 **Eureka, California 95503**

**AMENDED
ACCUSATION**

15 **Registered Nurse License Number 339969**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Louise R. Bailey, M.Ed., R.N., brings this Amended Accusation solely
21 in her official capacity as the Executive Officer of the Board of Registered Nursing (Board),
22 Department of Consumer Affairs.

23 2. On or about September 30, 1981, the Board issued Registered Nurse License Number
24 339969 to respondent Lisa Rae Ayers. This registered nurse license was in full force and effect at
25 all times relevant to the charges brought in this Amended Accusation and will expire on October
26 31, 2013, unless renewed.

27 ///

JURISDICTION

3. This Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), provides:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

5. Section 2750 provides:

“Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this article, “license” includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.”

6. Section 2764 provides:

“The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.”

///

1

2

3

7

8

10

11

13

14

17

18

21

22

27

1 or the possession of, or falsification of a record pertaining to, the substances described in
2 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
3 thereof.”

4 10. California Code of Regulations, title 16, section 1443, provides:

5 “As used in Section 2761 of the code, ‘incompetence’ means the lack of possession of or
6 the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
7 exercised by a competent registered nurse as described in Section 1443.5.”

8 **COST RECOVERY**

9 11. Section 125.3 provides, in pertinent part:

10 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
11 proceeding before any board within the department or before the Osteopathic Medical Board,
12 upon request of the entity bringing the proceedings, the administrative law judge may direct a
13 licensee found to have committed a violation or violations of the licensing act to pay a sum not
14 to exceed the reasonable costs of the investigation and enforcement of the case.”

15 **DRUGS**

16 12. “Morphine” is a Schedule II controlled substance pursuant to Health and Safety Code
17 section 11055, subdivision (b)(1)(L), and is a dangerous drug within the meaning of Business and
18 Professions Code section 4022. It is in a group of drugs called narcotic pain relievers, or opioids,
19 and is used to treat moderate to severe pain.

20 **FACTUAL BACKGROUNDS AND CAUSES FOR DISCIPLINE**

21 **Arrest and Conviction**

22 13. On or about March 15, 2009, at about 12:15 a.m., respondent was driving a Chevrolet
23 Tahoe in Arcata, California, when she almost hit a patrol vehicle driven by a highway patrolman.
24 Respondent had the odor of an alcoholic beverage on her person, her speech was sometimes
25 slurred, her eyes were red and watery, and she was unsteady on her feet. She admitted drinking
26 two glasses of wine that evening at a fire department fundraiser. She performed the field sobriety
27 tests poorly. Respondent submitted to breath tests which showed she had blood alcohol levels of
28 0.10% and 0.09%. Respondent was arrested and charged with misdemeanor violations of Vehicle

1 Code section 23152, subdivisions (a) (driving under the influence of an alcoholic beverage) and
2 (b) (driving while having a 0.08 percent or higher blood alcohol content).

3 14. On or about July 2, 2009, in the Superior Court of California, Humboldt County, in
4 case number CR092119S entitled *The People of the State of California vs. Lisa Rae Ayers*,
5 respondent pled guilty to a misdemeanor violation of Vehicle Code section 23103 ("wet" reckless
6 driving), a lesser included offense of section 23152, subdivision (a). The other count was
7 dismissed. Imposition of sentence was suspended, and respondent was placed on court probation
8 for a period of three years. Terms of probation included attendance at an alcohol education
9 program.

10 **FIRST CAUSE FOR DISCIPLINE**
11 **Criminal Conviction**
12 **Bus. & Prof. Code, §§ 490, subd. (a), 2761, subd. (f)**

13 15. The allegations of paragraphs 13-14 are realleged and incorporated by reference as if
14 fully set forth.

15 16. Respondent has subjected her registered nurse license to disciplinary action for a
16 criminal conviction under sections 490, subdivision (a) and 2761, subdivision (f). As set forth in
17 paragraphs 13-14 above, respondent was convicted of a misdemeanor violation of Vehicle Code
18 section 23103.

19 **SECOND CAUSE FOR DISCIPLINE**
20 **Unprofessional Conduct – Use of Alcoholic Beverages**
21 **Bus. & Prof. Code, §§ 2761, subd. (a), 2762, subd. (b)**

22 17. The allegations of paragraphs 13-14 are realleged and incorporated by reference as if
23 fully set forth.

24 18. Respondent has subjected her registered nurse license to disciplinary action for
25 unprofessional conduct under section 2761, subdivision (a), as defined by section 2762,
26 subdivision (b). As set forth in paragraphs 13-14 above, respondent used alcoholic beverages in a
27 manner dangerous or injurious to herself or the public by intoxicated reckless driving.

28 ///

THIRD CAUSE FOR DISCIPLINE
Unprofessional Conduct – Criminal Conviction
Bus. & Prof. Code, §§ 2761, subd. (a); 2762, subd. (c)

19. The allegations of paragraphs 13-14 are realleged and incorporated by reference as if fully set forth.

20. Respondent has subjected her registered nurse license to disciplinary action for unprofessional conduct under section 2761, subdivision (a), as defined by section 2762, subdivision (c). As set forth in paragraphs 13-14 above, respondent was convicted of a misdemeanor violation of Vehicle Code section 23013 for intoxicated reckless driving.

Administration of Medication Without a Valid Physician Order

21. On or about February 18, 2009, while employed as a registered nurse at St. Joseph Hospital, Eureka, California, respondent gave patient¹ CB an intravenous administration of morphine without a valid physician's order. The physician's order was expired.

22. On or about February 19, 2009, respondent gave CB another intravenous administration of morphine without a valid physician's order. The physician's order was expired.

FOURTH CAUSE FOR DISCIPLINE
Unprofessional Conduct – Incompetence
Bus. & Prof. Code, §§ 2761, subd. (a), 2761, subd. (a)(1)

23. The allegations of paragraph 21 and 22 are realleged and incorporated by reference as if fully set forth.

24. Respondent has subjected her registered nurse license to disciplinary action for unprofessional conduct under section 2761, subdivision (a), as defined by section 2761, subdivision (a)(1). As set forth in paragraph 21 and 22 above, respondent was incompetent on or about February 18, 2009, and again on or about February 19, 2009, by giving patient CB intravenous administrations of morphine without a valid physician's order. The physician's order was expired.

///


¹ The patient's name will be released pursuant to a discovery request.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this Amended Accusation, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number 339969 issued to Lisa Rae Ayers;
2. Ordering Lisa Rae Ayers to pay the Board the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: February 20, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2012401151
20612999.doc